# BOARD OF SELECTMEN AND SEWER COMMISSIONERS' MEETING September 13, 2010

# Acton Town Hall Francis Faulkner Hearing Room Regular Meeting begins at 7:00 P.M.

#### Executive Session, Room 126, 5:30 P.M.

Present: Lauren Rosenzweig Morton, Michael J. Gowing, Terra Friedrichs, Janet K. Adachi, Pamela Harting-Barrat (absent). Town Manager Steven Ledoux; Recording Secretary: Christine Joyce; Doug Wilkins and Christine Griffin of Anderson & Kreiger. The Meeting was televised for regular session

Ms. Rosenzweig Morton: "I am convening this meeting of the Board of Selectmen in open session at 5:30 p.m."

Ms. Rosenzweig Morton: "I'll entertain a motion to enter into Executive Session to discuss strategy with respect to litigation." and to invite Attorneys Griffin and Wilkins to sit in and participate in the Executive Session.

Ms. Friedrichs: "So moved." Mr. Gowing: "Second."

Ms. Rosenzweig: "Before roll call vote to enter into executive session let me state:

"In Executive Session, the Selectmen will discuss with town counsel litigation and real estate negotiations as to pending cases involving the Town or one of its boards:

Crossroads Development, LLC, and Mass Retirement Board case and Caouette Land.

In each case, an open meeting may have a detrimental effect on the litigating position of the Town or the Board."

Ms. Rosenzweig Morton asked that the Clerk call the Roll. All Ayes

Ms. Rosenzweig Morton announced that "at the conclusion of the Executive Session, the Board will reconvene in open session solely to adjourn the meeting."

#### CITIZENS' CONCERNS

Christopher Whitley, Silver Hill Road resident asked that the sidewalks on Silver Hill be cleared of snow. He said he had written asking for this and no one responded.

Kate Chung from the Side walk Committee said that they had replied to his request and that the answer was it was not plowed as it is not a connector road.

#### **CHAIRPERSON'S UPDATE**

Ms. Rosenzweig Morton spoke about the items on the agenda to be discussed. Ms. Rosenzweig Morton noted that the Board needed to stay on time with its appointments

Tomorrow is the State Primary and please everyone get out and vote. A second Open Meeting Law informational meeting will be held all are invited to attend.

The Board scheduled a Special Town Meeting in case we had finalized the Caouette property. The date may be extended to October to allow time for a public presentation well before the Town Meeting. Ms. Rosenzweig Morton read a prepared statement and update on the status of the property

#### **OPERATIONAL MINUTE**

Mr. Ledoux noted that the state certified the Town's Free Cash in the amount \$4,650,574 and that in contrast to 2009, we doubled our Free Cash in one year.

On, Sept., 7<sup>th</sup> the commuter shuttle commenced to run from West Acton Fire to the train station and they are finalizing another lot. Transaction Associates is also working on Dial-A-Ride services.

#### **PUBLIC HEARINGS & APPOINTMENTS**

## CHRISTOPHER MILES, CONCERNED ABOUT STATE SEX OFFENDER REGISTRY

State Registered Sex Offender Registry (continued discussion from August 23, 2010)

Ms. Rosenzweig Morton outlined the purpose of this meeting and asked the Board if we could provide a workshop. Ms. Friedrichs felt the workshop would be good but that we also should look into other town's bylaws. Ms. Rosenzweig Morton said that she talked to police in some of the other towns and looked at some studies available online. The data regarding geographic limits for registered sex offenders appeared to be inconclusive. There were reports that such limits deterred offenders from living in communities where restrictions existed, but seemed to just move the offenders to live in another place.

Ms. Adachi noted that these offenders have been released have done their time and they are required to registered with the State and cities and towns and those that don't register are free to go about the communities. She feels we need more facts before we could even go forward with a bylaw.

Mr. Gowing spoke about studies that show the importance of teaching children to be aware of potential situations that make them vulnerable to sex offenders, and teaching them how to react, and how to keep themselves safe. He thinks this bylaw is not effective. He would like to take the workshop approach.

Representative Jen Benson has been working on this issue and has heard from Acton and Lunenburg. She offered a statewide approach to address this issue. She said she would meet the Police Chief and wants to partner to resolve this issue. The issue may be more about our

sentencing for sex offenders. We may need to see what services they need in order to become rehabilitated citizens.

Chris Miles said we need to pull together a group to look at what bylaw would keep our children safe.

Chief Widmayer said he wants a State law to address this and will work with Jen Benson.

Ms. Adachi suggested we have neighborhood vigilance which would be more effective.

Mr. Gowing spoke about a court case in Lowell to extending sex offender sentencing; the court said they could add to the sentence if they feel they have not been rehabilitated.

Ms. Friedrichs – Moved to suggest that Rep Benson, Police Chief Frank Widmayer and Chris Miles work with other communities to develop a state bylaw in parallel with planning a workshop on the topic for our community. Ms. Adachi – second. UNANIMOUS VOTE

# RED WHITE AND BREW, BEER AND WINE AS A PACKAGE STORE, CHANGE OF LOCATION FROM 586 TO 578 MASSACHUSETTS AVE.

Ms. Friedrichs – Moved to approve the location change from 586 to 578 Massachusetts Ave. Mr. Gowing – second. UNANIMOUS VOTE

### CHANGE OF MANAGER, NOT YOUR AVERAGE JOE'S

Steven Syas to replace Erica Daniel. Lauren asked for experience. He has worked with liquor and food for many years with zero offenses. Ms. Friedrichs – Moved to approve. Ms. Adachi – second. UNANIMOUS VOTE

# POWDER MILL ROAD - WETHERBEE PLAZA EXTENSION. MR. BERTOLAMI PROPERTIES

Wetherbee Plaza Extension - Ms. Friedrichs - Moved to approve the changes to Wetherbee Plaza Extension items agreed upon to be completed including the items in Mr. Bertolami's memo (not dated) and handed out tonight, and to approve 4 foot sidewalk in the area of the "Carriage House" building. Mr. Gowing - second. UNANIMOUS VOTE

Ms. Friedrichs – Moved to delay extension of sidewalk to Brabrook Road and to approve the Carriage House Driveway and turning radius pending the approval from staff review and comment. Mr. Gowing – second. UNANIMOUS VOTE.

Approval of changes overall motion above to accept the changes pending staff approval

#### 50 POWDER MILL ROAD PRESCOTT PAINT BUILDING

Mr. Bertolami discussed 50 Powder mill Road and answered questions about the doors to be used.

56 Powder Mill Road known as the "doll house" will be demolished

60 Powder Mill Road –Acton Suzuki he is negotiating a Quick Lube at that location. The ramp requirement is an issue. After discussion of the issue of a ramp vs. fire lane marking the Board agreed to remove the ramp requirement and replace with stairs and to include the fire Lane instead of ramp.

Motion to remove ramp and replace with stairs and include pavement markings to indicate an appropriate fire lane; the "Prescott" building should be built as indicated in the plans submitted to the Zoning Board of Appeals Mr. Gowing – second. Ms. Friedrichs – NAY. Motion Passes 3-1

Motion to approve pending staff approval, make changes to allow test house demolition and changes agreeable to staff and the Board. Mr. Gowing - second. Ms. Friedrichs - NAY. Motion passes 3-1.

#### MORRISON FARM REUSE CONTINUING DISCUSSION

Mr. Gowing reviewed the Board votes thus far on the check list items.

Ms. Rosenzweig Morton noted that she wanted to maintain the same size of the Community Gardens as currently exists—perhaps expand the Pam Resor Orchard adjacent to gardens.

Ms. Friedrichs too wanted to honor the recreation people who were involved.

Active Recreation component - Lower or Front meadow?

Maya Spies noted that wildlife and people want to use it at the same time. Three Selectmen generally are in favor of active recreation on the flat area near the pond Ms. Friedrichs abstained and noted she thinks there are a lot of other options and it should be taken to Town Meeting

Playground or no playground – Mr. Gowing noted that there is no playground in East Acton. Ms. Adachi and Ms. Rosenzweig Morton wanted the playground, Ms. Friedrichs wanted to maintain the play areas we already have, and she noted they are in need of repair. She urged a small-scale playground with natural materials at the Ice House Pond.

# SITE PLAN SPECIAL PERMIT, #7/26/10-428, WEST ACTON TRIO, LLC. 232 ARLINGTON STREET, "SPRUCE CORNER"

Mark Roderick outlined what they do as developers and builders in the city. They liked the parcel and wanted to have a town-friendly design. Scott Hayes the Engineer gave an over view of the project.

Peter Quinn - discussed the design and has addressed Design Review Board concerns.

226 Arlington Street direct abutters are concerned about their barn and height of the proposed buildings.

220 Arlington Street – resident asked about a traffic study for traffic from the proposed seven units coming out on Spruce Street when school is in session. No traffic study has been performed as the development is small.

What is the volume of trees to be removed behind the dwellings? The Applicant's representatives noted that there was not any substantial growth.

Ann Sussman, Chair of DRB, shares the concern of the abutters about the height of the proposed building vs. the barn at 226 Arlington Street. The petitioners have been wonderful to work with. DRB liked the April 9<sup>th</sup> rendition and it noted it has been changed to build a more economical building.

Chris Dallmus, 5 Central Street thinks it is a very nice design and mix with residential and business. He shares the concerns about the height of the building to the eave elevation.

Dick Calendrella - Thanked the Applicant for the sidewalks and the business spaces

Ms. Rosenzweig – Moved to continue the hearing to September 27 at 8:50 with the approval of the Petitioner. Petitioner agreed. Mr. Gowing – second. UNANIMOUS VOTE

#### **SELECTMEN'S BUSINESS**

### SPECIAL TOWN MEETING DISCUSSION

Ms. Rosenzweig Morton – Moved to Post pone the scheduled Special Town Meeting and to call a new STM date for Oct., 12<sup>th</sup> at 7:00 p.m. Mr. Gowing - second. UNANIMOUS VOTE. Mr. Gowing - Moved to open and close the warrant at the end of this meeting - Ms. Friedrichs - second. UNANIMOUS VOTE

Mary Michelman wanted the Board to consider looking further for other possibly contaminated areas on the property as this land has been a farm for many years.

# **OPEN MEETING LAW, REMOTE PARTICIPATION**

The Attorney General wants input on remote participation by board members in public meetings. The Town Manager will work with Town Counsel on a letter to the Attorney General. Ms. Adachi believes in-person participation is important for public officials, and that remote participation should be available only in limited circumstances, so that it is not abused.

Ms. Friedrichs is a fan of telecommunicating for public officials and supports electronic ways to communicate but wanted us to learn this technology and to find methods to record the audio.

Ms. Rosenzweig Morton voiced her feelings against remote participation.

# BOARD DISCUSSION REGARDING A LOCAL INFORMATION SESSION WITH REGARD TO COMPREHENSIVE LAND USE AN DEVELOPMENT PARTNERSHIP ACT (CLURPA)

Senator Eldridge's office staff agrees that there should be a workshop. Ms. Friedrichs said this is landmark legislation. The Massachusetts Municipal Association has voted against it. Mr. Gowing – Moved to have Ms. Harting-Barrat and Ms. Friedrichs work on developing a workshop to educate the townspeople about CLURPA and what the proposals entail. Ms. Rosenzweig Morton - seconded. UNANIMOUS VOTE

#### DRAFT DECISION, CAPIZZI & COMPANY, 820 MAIN STREET, #6/11/10-247

Ms. Rosenzweig Morton expressed concern about requiring that the applicant build the sidewalk. She would prefer a sidewalk bond so that the sidewalk gets built sooner; it probably would be cheaper. With a bond, the Board tells the builder to build the sidewalk and if the builder doesn't, the Town can build. Steve Ledoux said the bond is the preferred approach.

The Board discussed deleting Option B and requiring Option A. Ms. Rosenzweig Morton – Moved to require Option A, and a cash bond for the sidewalk on Main Street, and require the applicant to build the sidewalk. No Second, Motion Fails.

After some discussion of the need for a super-majority vote of four, the vote was deferred to the September 27<sup>th</sup> Meeting with Ms. Harting-Barrat absent today and Ms. Friedrichs having missed one of the meetings and therefore unable to participate in the vote, there were not enough people to vote a super-majority. Ms. Friedrichs agreed to watch a tape of the first hearing, and sign a paper indicating that she had done so, by the next meeting on September 27<sup>th</sup>. Ms. Harting-Barrat was also expected to be in attendance at that meeting.

### **EPA REPORT ON GRACE LANDFILL, CONSULTANTS COMMENTS**

Ms. Rosenzweig Morton spoke about the report submitted. Mary Michelman of ACES will provide ACES comments, which are due Friday. Grace is required to pump the contaminated water out and capture and clean it. They currently have five wells. She spoke about her comments on behalf of ACES. Ms. Adachi will review with the Town's consultant, Jim Okun, the issue that Ms. Michelman has raised about Grace's reliance on a model to calculate recapture areas. Ms. Rosenzweig Morton wished there was a way to communicate with one voice.

Ms. Rosenzweig Morton was comfortable having Mr. Okun go over the ACES comments and send a letter by the deadline, and requiring that real data not model data be used to evaluate the extraction and capture zone. Other Board members agreed.

#### VICIOUS DOG COMPLAINT, AMY BARNETT, 18 STRAWBERRY HILL ROAD, UNIT 22E

Ms. Friedrichs – Moved to hold the Dog Hearing on September 27<sup>th</sup>. Mr. Gowing – Second. UNANIMOUS VOTE

### **BOARD VOTE TO ENDORSE MCCARTHY VILLAGE II PROJECT**

Mr. Gowing – Moved to sign a letter of support to the state Department of Housing and Community Development of the project on Sachem Way. Low to moderate income, 12 units. Ms, Adachi – second.

Ms. Friedrichs noted that she did not support this but would now because of pending legislation changes to Chapter 40B. UNANIMOUS VOTE

#### **SELECTMEN'S REPORTS**

Ms. Friedrichs noted that Pat Easterly had resigned from the Finance Committee. Herman Kabakoff spoke about school raise increases.

Ms. Friedrichs noted cost saving topics of issues
Barn demolitions seem to be increasing
Water District capacity and Boxboro issue
Board of Selectmen Minutes
September 13, 2010

West Acton Market can no longer employ Skip Kennedy, and Skip Kennedy will be getting a proclamation at Oktoberfest for his community service.

Mr. Gowing spoke about the Council on Aging savings from the use of email for the newsletter. The Commission on Disabilities has arranged training for an October 13<sup>th</sup> PSF which is open to anyone

Ms. Rosenzweig Morton spoke about union negotiations

The School Superintendent made great kick- off speech for the first day of school. Received very positive feedback by School Committee members.

ALG Meeting 16th at 7 a.m.

Sidewalk Main Street - Sidewalk has been mostly completed and they will address the Main Street portion at Conant's property and Isaac Davis Trail.

Ms. Rosenzweig Morton suggested an e-mail to all asking and reminding them to submit projects to CPC to see if they are eligible for funding.

Ms. Adachi spoke about her attendance at the Community Preservation Committee meeting. Not much to report at this time.

She is attending the Wastewater Advisory Neighborhood Task Force meetings every two weeks.

She is attending Conservation meetings periodically.

#### CONSENT

#19 Quit Claim Deed - Held for questions by Ms. Friedrichs

Ms. Rosenzweig Morton – Moved to accept the items listed under Consent except for #19. Mr. Gowing– second UNANIMOUS VOTE

Ms. Friedrichs asked questions about item #19.

Mr. Gowing - Moved to approve #19. Ms. Adachi - second. UNANIMOUS VOTE

#### **EXECUTIVE SESSION**

To discuss Litigation, Crossroads Development, LLC., MRB, Caouette Land

Motion to adjourn 11:00 p.m.

Christine Joyce, Recording Secty

Clerk

Date:

# BOARD OF SELECTMEN & SEWER COMMISSIONERS' MEETING AGENDA

# Francis Faulkner Hearing Room September 13, 2010 7:00 PM

EXECUTIVE SESSION - ROOM 126 - 5:30 P.M. TO 7:00 P.M.

5:30 P.M. Executive Session to discuss litigation with respect to Crossroads Development, LLC., Acton vs. Middlesex Retirement Board (MRB), Land Negotiations, Stow Street (Caouette Property) and Collective Bargaining Strategy, Police Union

- I. CITIZENS' CONCERNS
- II. Public Hearings and Appointments
  - 1. 7:05 CHAIRMAN'S UPDATE
  - 2. 7:10 OPERATIONAL MINUTE, TOWN MANAGER
  - 3. 7:15 FURTHER DISCUSSION REGARDING REGISTERED SEX
    OFFENDERS BOARD DISCUSSION AND RECOMMENDATIONS
    Enclosed please find materials in the subject regard
  - 4. 7:35 RED WHITE & BREW, TRANSFER OF LOCATION, BEER AND WINE AS A PACKAGE STORE, FROM 586 MASS AVE TO 578 MASS AVE.

    Enclosed please find materials in the subject regard
  - 5. 7:45 CHANGE OF MANAGER, NOT YOUR AVERAGE JOE'S Enclosed please find materials in the subject regard
  - 6. 7:50 LEO BERTOLAMI, 50, 54 AND 60 POWDER MILL ROAD, 107 GREAT ROAD, WETHERBEE PLAZA II

    Enclosed please find materials in the subject regard
  - 7. 8:30 MORRISON FARM REUSE DISCUSSION

    Enclosed please find materials in the subject regard
  - 8. 8:50 SITE PLAN SPECIAL PERMIT, #7/26/10-428, WEST ACTON TRIO, LLC, 232 ARLINGTON STREET, "SPRUCE CORNER"

    Enclosed please find materials in the subject regard

### III. SELECTMEN'S BUSINESS

#### 9. SPECIAL TOWN MEETING DISCUSSION

Enclosed please find materials in the subject regard

# 10. OPEN MEETING LAW, REMOTE PARTICIPATION

Enclosed please find materials in the subject regard

# 11. BOARD DISCUSSION AND VOTE TO PLAN A LOCAL INFORMATION SESSION AND DISCUSSION OF CLURPA (COMPREHENSIVE LAND USE REFORM PARTNERSHIP ACT)

Enclosed please find materials in the subject regard. (Ms. Friedrichs has asked that the Board discuss this project)

# 12. DRAFT DECISION, CAPIZZI & COMPANY, 820 MAIN STREET, #6/11/10-247.

Enclosed please find materials in the subject regard

# 13. EPA REPORT ON GRACE LANDFILL, CONSULTANTS COMMENTS

Enclosed please find materials in the subject regard

# 14. VICIOUS DOG COMPLAINT PRE-HEARING DOCUMENTS, AMY BARNETT, 18 STRAWBERRY HILL ROAD, UNIT 22E, FOR SELECTMEN'S SIGNATURES

Enclosed please find materials in the subject regard

# 15. VOTE TO ENDORSE LETTER TO DHCD IN SUPPORT OF THE ACTON HOUSING AUTHORITY, MCCARTHY VILLAGE II PROJECT

Enclosed please find materials in the subject regard

#### 16. SELECTMEN'S REPORTS

#### IV. CONSENT AGENDA

### 17. ACCEPT MINUTES, BOARD OF SELECTMEN, JUNE 21, 2010

Enclosed please find materials in the subject regard

# 18. COMMITTEE APPOINTMENT, PETER ASHTON, ASSOCIATE MEMBER, COMMUNITY PRESERVATION COMMITTEE.

Enclosed please find materials in the subject regard

### 19. QUITCLAIM DEED, LOTHROP ROAD

Enclosed please find materials in the subject regard

### 20. ONE DAY LIQUOR LICENSE, 276 POPE ROAD, FUNDRAISER

Enclosed please find materials in the subject regard

### 21. ONE DAY LIQUOR LICENSE, NARA PARK, IBM PARTY

Enclosed please find materials in the subject regard

# 22. ONE DAY LIQUOR LICENSE, IRON WORK FARM, ANNUAL OPEN TAP ROOM

Enclosed please find materials in the subject regard

### 23. ACCEPT GIFT, TOWN MANAGER

Enclosed please find a gift of an African Rose Wood table valued at \$3,600.00 from Mr. Dittmer, 172 Willow Street, to be used in the Town Manager's Office as a conference space

## 24. DISPOSAL OF OBSOLETE MATERIALS, MEMORIAL LIBRARY

Enclosed please find materials in the subject regard

# 25. DECLARE AS SURPLUS, COMPUTER EQUIPMENT, MEMORIAL LIBRARY

Enclosed please find materials in the subject regard

### **EXECUTIVE SESSION**

Will be needed to discuss Litigation, and Land Negotiations – scheduled for 5:30 – 7:00 p.m.

### **ADDITIONAL INFORMATION**

Enclosed please find additional correspondence that is strictly informational and requires no Board action.

### **FUTURE AGENDAS**

To facilitate scheduling for interested parties, the following items are scheduled for discussion on future agendas. This is not a complete agenda.

#### **SEPTEMBER 27**

Restorative Justice, Board of Health Oversight Meeting, Nursing Report

### **OCTOBER 18**

WRAC and WANT Oversight Meetings

#### MINUTES PENDING VOTES

June 7, July 12, 26 and 28, August 23rd

#### PENDING COMMITTEE APPOINTMENTS

Ann D. Corcoran - COA - sent to VCC

Christine E. Perraud, Cons Com - sent to Vcc

James Chiarelli, Associate, Historical Commission – sent to VCC

Terence Lobo, Cable TV Advisory Committee - sent to VCC

Chester Ruszczyk, Cable Advisory Committee - sent to vcc

Betsy Mercier - Recreation Commission -sent to VCC

Michael A. Luongo - Board of Appeals, Board of Health, Application sent to VCC

Fenglan Zhang - (Minuteman Voc and South Acton Revitalization Committee) note that we currently have a Minuteman

Rep. and the South Acton Revitalization committee is no longer a committee - sent to VCC

Ahmed Hilmy - Design Review Board, Finance Committee, EDC -Application sent to VCC and Town Moderator

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	101	020 (3) Registered Sex Offender Materials	admin	09/10/10	502 KB			⊽
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		040 (4) Transfer of Location, Beer and Wine Package Store, Red White and Brew, 578 Mass Ave	admin	09/10/10	178 KB			ಶ
1.3	<b>a</b>	050 (5) Change of Manager, Not Your Average Joe's	admin	09/10/10	783 KB		〇〇	4
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IJ		065 (6) Engineering Comments RE: Powdermill Road and 107 Great Road, Owned by Mr. Bertolami	admin	09/10/10	51 KB			4
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	•	080 (8) Site Plan Special Permit, #7/26/10-428, West Acton Trio, LLC, 232 Arlington Street "Spruce Corner"	admin	09/10/10	450 KB		<b>全</b> 口	4
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		110 (9) Draft Warrant, Special Town Meeting, September 28, 2010	admin	09/10/10	543 KB			▼
		120 (10) Open Meeting Laws, Remote Participation	admin	09/10/10	145 KB			▼
		130 (11) Comprehensive Land Use Reform Partnership Act Discussion	admin	09/10/10	515 KB		₩₽	♡
	<b>10</b>	140 (12) Capizzi & Company, Draft Site Plan Decision, 820 Main Street	admin	09/10/10	476 KB	<b>7</b>		⊽
	<b>10</b>	150 (13) Town Consultant Comments, EPA Report on Grace Landfill	admin	09/10/10	128 KB			A
$\Box$		160 (14) Vicious Dog Complaint Pre-	admin	09/10/10	641			

	hearing Materials, Ms. Barnett, Owl	ner		KB						
	170 (15) Vote To Endorse Letter to DHCD in Support of Acton Housing Authority	admin I	09/10/10	51 KB						
D For	180 (17) Accept Minutes, Board of Selectmen, June 21, 2010	admin	09/10/10	413 KB						
70	190 (18) Committee Appointment, CPC, Peter Ashton, Associate Member	admin	09/10/10	141 KB						
	200 (19) Lothrop Road, Quitclaim Deed	admin	09/10/10	390 KB						
	210 (20) One Day Liquor License, 2 Pope Road	76 admin	09/10/10	101 KB						
	220 (21) One Day Liquor License, NARA Park	admin	09/10/10	93 KB	四图图中					
	230 (22) One Day Liquor License, Ir Work Farm	on admin	09/10/10	112 KB						
To For	240 (23) Accept Gift, Table from Mr. Dittner	. admin	09/10/10	39 KB						
	250 (24) Disposal of Obsolete Materials, Memorial Library	admin	09/10/10	39 KB						
	260 (25) Declare as Surplus, Computer Equipment, Memorial Library	admin	09/10/10	78 KB						
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